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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,606	08/20/2003	Robert A. Contestabile	Y03-020	5991
7590 01/23/2006 Law Offices of Kenneth W. Float 2095 Hwy. 211 NW, # 2F Braselton, GA 30517			EXAMINER POPE, DARYL C	
			ART UNIT 2632	PAPER NUMBER
DATE MAILED: 01/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/644,606

Applicant(s)

CONTESTABILE, ROBERT A.

Examiner

DARYL C. POPE

Art Unit

2632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-35, 42 and 43.

Claim(s) objected to: 40 and 41.

Claim(s) rejected: 36-39.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See: Attachment.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

DARYL C POPE  
Primary Examiner  
Art Unit: 2632

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 9/16/2005 have been fully considered but they are not persuasive.

Applicant's arguments with regards to claims 36-39 are not deemed persuasive because as stated in the previous office action, claims 36-39 do not recite limitations pertaining to receiving time-coded position data and memory for storage of the time coded position data which places claim 1 in condition for allowance. Applicant is arguing that Hoffman et al(Hoffman) in view of Brown et al(Brown) do not teach a wireless portable monitoring device comprising a wireless voice and data communication device for communicating with the client tracking unit by way of the wireless communication link to remotely monitor the client. But as stated in the art rejection dated 3/28/2005, the examiner cited the portable signaling unit of Hoffman including data to voice switch(114) in conjunction with the cellular transmitter(11) radio receiver(116) for the purpose of communicating with the unit(40), which reads on the claimed client tracking unit of the present invention. The examiner then further introduced Brown which teaches a multi-user global position tracking system which utilizes the internet and web host to monitor and track desired individuals via a user terminal. The examiner then combined the prior art based on what would have been obvious to one of ordinary skill in the art at the time the invention was made, not on hindsight reconstruction as implied by the applicant, which clearly read on the claimed

subject matter of claims 36-39. In view of this, applicant's arguments are not deemed persuasive.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C. POPE whose telephone number is 571-272-2959. The examiner can normally be reached on M-TH 9:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL J. WU can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daryl C. Pope  
January 19, 2006

DARYL C POPE  
Primary Examiner  
Art Unit 2632

A handwritten signature in black ink, appearing to read 'Daryl C. Pope', is written over the printed name and title of the examiner.